

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

ABDUL BROWN,)	
)	
Plaintiff,)	
v.)	CIVIL ACTION NO. 07-637
)	
LEE JOHNSON,)	Chief Magistrate Judge Lisa Pupo
)	Lenihan
Defendant.)	
)	

PLAINTIFF'S PRETRIAL STATEMENT

AND Now comes the Plaintiff, Abdul Brown, by and through his attorney, Raymond N. Sanchas, Esquire and hereby files this Pretrial Statement:

NARRATIVE STATEMENT OF MATERIAL FACTS

Plaintiff Abdul Brown is a prisoner currently incarcerated at the State Correctional Institution at Fayette, Pennsylvania. Plaintiff brought the instant action by filing a Complaint with three counts against sixteen Department of Corrections officers on May 14, 2007. On March 21, 2011, this Honorable Court issued a Memorandum Order granting summary judgment to the Defendants on all claims except for Plaintiff's claim that Defendant Johnson used the EBID after Plaintiff was fully restrained in the restraint chair and incapable of being a threat.

On December 12, 2005, Plaintiff was forcibly dragged out of his cell by guards dressed in full riot gear. Plaintiff was placed in a restraint chair where he was shocked in the neck with an Electronic Barring Immobilization Device (EBID) after his arms and legs had already been tightly bound to the chair rendering him incapable of forcible resistance or self-defense. The initial extraction and restraint was recorded by a video camera.

After Plaintiff was secured and tightly bound to the restraint chair and struck apparently once by the EBID device, the video camera was turned off and kept off for the following approximately eight hour period in which Plaintiff remained bound to the restraint chair.

During this unrecorded period while Plaintiff remained tightly bound in the restraint chair, Defendant Lee Johnson entered Plaintiff's cell and repeatedly stunned him with the EBID device even though he was incapable of being a threat to anyone and also incapable of any defense. This unwarranted use of the EBID on Plaintiff caused him to vomit and defecate on himself.

Plaintiff has endured pain, suffering, and humiliation as a result of being attacked and repeatedly stunned by the EBID while restrained. He has suffered burns and has permanent scarring from being shocked by the EBID device by Defendant Johnson.

STATEMENT OF DAMAGES

Plaintiff suffered physical and emotional injury and has been permanently scarred. Although he initially demanded compensatory and punitive damages well in excess of \$75,000.00, he has now made a very modest settlement demand of \$2,500.00.

WITNESSES

A. Witnesses expected to be called:

1. Abdul Brown
Inmate No. DP2655
SCI Fayette
Box 9999
LaBelle, PA 15450-1050
Liability & Damage
2. Telly Royster
Inmate No. EL2245
SCI Camp Hill
P. O. Box 200
Camp Hill, PA 17001-8837
Liability

B. Witnesses who may be called if the need arises:

3. Lee Johnson
SCI Fayette
50 Overlook Drive
LaBelle, PA 15450-1050
Liability
4. Ken Kutcher, R.N.
SCI Fayette
50 Overlook Drive
LaBelle, PA 15450-1050
Liability & Damages

Plaintiff reserves the right to call all parties and any witness named in the Defendants' Pretrial Statement. Plaintiff also reserves the right to call witnesses for purposes of impeachment and rebuttal.

DOCUMENTS

Plaintiff intends to submit various documents which are attached to pleadings already filed in this case and are hereby incorporated by reference including the Department of Corrections Grievance #138822, photographs attached to Defendants' initial Motion for Summary Judgment, and a portion of the DVD of Plaintiff's December 12, 2005 cell extraction which were attached to the Defendants' initial Motion for Summary Judgment..

Plaintiff reserves the right to offer exhibits for purposes of impeachment and rebuttal.

LEGAL ISSUES TO BE ADDRESSED AT FINAL PRETRIAL CONFERENCE

Defendant's Motion for Summary Judgment is pending. Plaintiff's response to such pleading is due January 20, 2012. If this case is not resolved by the defendant's motion for

Summary Judgment or settlement, Plaintiff intends to file a Motion *in Limine* which will need to be addressed.

Respectfully submitted:

December 29, 2011
Date

/s/ Raymond N. Sanchas
Raymond N. Sanchas, Esquire
Counsel for Plaintiff
PA ID#33295

Koppers Building, 11th Floor
436 Seventh Avenue
Pittsburgh, PA 15219
(412) 391-4467

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Plaintiff's Pretrial Statement was served on the 29th day of December, 2011, on counsel of record for the Defendant electronically and by first class mail, postage pre-paid, addressed as follows:

Douglas B. Barbour, Deputy Attorney General
Commonwealth of Pennsylvania
Office of Attorney General – Litigation Section
Fifth Floor, Manor Complex
Pittsburgh, PA 15219

Date: December 29, 2011

/s/Raymond N. Sanchas
Raymond N. Sanchas, Esquire
Attorney for Plaintiff